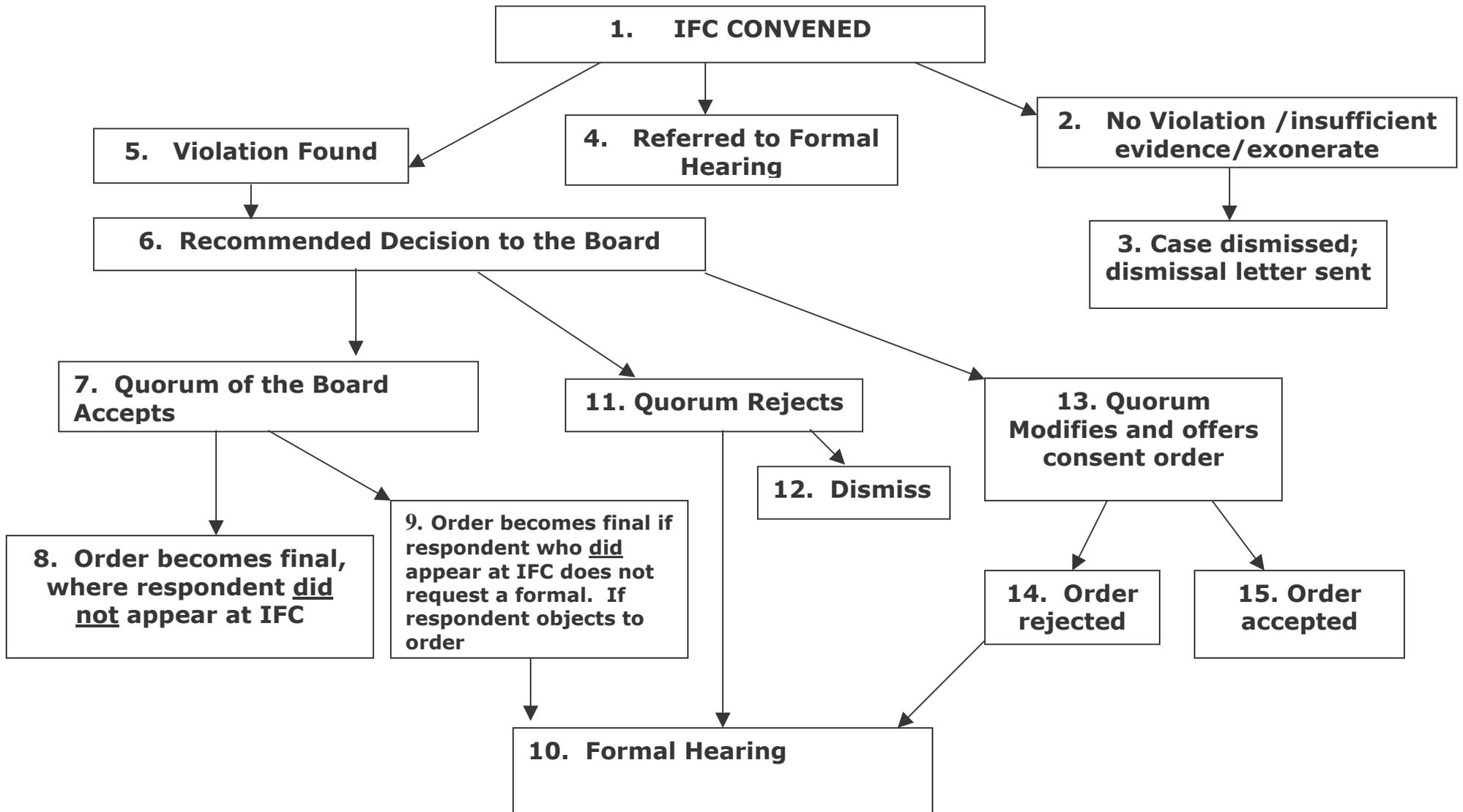


## Guidance for Conduct of an Informal Conference by an Agency Subordinate of a Health Regulatory Board at the Department of Health Professions



## **Narrative explanation of Flow Chart on Delegation to an Agency Subordinate**

*This describes the process in which a subordinate hears a case at an informal conference up to a case that may be referred to a formal hearing.*

- 1.** Pursuant to a notice, the designated agency subordinate (“subordinate”) will convene the informal conference (“IFC”). An IFC before a subordinate is conducted in the same manner as an IFC before a committee of the board. Following the presentation of information by the parties, the subordinate will consider the evidence presented and render a recommended decision regarding the findings of fact, conclusions of law, and if appropriate, the sanction to be imposed.
- 2.** The subordinate may recommend that the respondent be exonerated, that there be a finding of no violation, or that insufficient evidence exists to determine that a statutory and/or regulatory violation has occurred.
  - 3.** If the subordinate makes such a finding, the case is dismissed and a dismissal letter is issued to the respondent notifying him of the determination.
- 4.** The subordinate may decide that the case should be referred to a formal hearing. A hearing before the board would then be scheduled and notice sent to the respondent.
- 5.** The subordinate may determine that a violation has occurred and recommend the findings of fact and conclusions of law along with an appropriate sanction.
  - 6.** With the assistance of APD, the subordinate drafts a recommended decision, which includes the findings of fact, conclusions of law and sanction. The recommendation is provided to the respondent and to the board and must be ratified by a quorum of the board.
- 7.** If a quorum of the board accepts the recommended decision and:
  - 8.** If the respondent did not appear at the IFC, the board’s decision becomes a final order that can only be appealed to a circuit court; or
  - 9-10.** If the respondent did appear at the IFC and objects to the order, he may request a

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formal hearing before the board. A case referred to a formal hearing proceeds in the same manner as cases considered by special conference committees convened pursuant to Va. Code § 54.1-2400(10). If the respondent who appeared at the IFC does not request a formal hearing, the order becomes final after a specified timeframe.

**11.** A quorum of the board may reject the recommended decision of the subordinate, in which case:

The board may decide to refer the case for a formal hearing **(10)**; or the board may decide to dismiss the case and a dismissal letter is issued to the respondent notifying him of the decision of the board **(12)**.

**13.** A quorum of the board may modify the subordinate's recommended decision, and a consent order reflecting the modified decision is presented to the respondent:

If the respondent accepts the consent order, it is duly entered **(15)**; or if the respondent rejects the consent order **(14)**, the case proceeds to a formal hearing before the board **(10)**.